

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIAD.LIGHT DESIGN, INC., *et al.*,

No. C-13-5988 EMC

Plaintiffs,

v.

BOXIN SOLAR CO., LTD., *et al.*,**ORDER GRANTING PLAINTIFFS'
APPLICATION FOR EXTENSION OF
TEMPORARY RESTRAINING ORDER**Defendants.

(Docket No. 65)

Plaintiffs have moved for an extension of the temporary restraining order (“TRO”) previously issued by the Court. The Court finds that there is good cause for the extension, more specifically, because the grounds for originally granting the TRO continue to exist. *See Wright, et al.*, Fed. Prac. & Proc. § 2953 (noting that “a showing that the grounds for originally granting the temporary restraining order continue to exist should be sufficient” to establish good cause for an extension).

The only issue is how long the TRO should last. Federal Rule of Civil Procedure 65 indicates that an extension should last for only 14 days. *See Fed. R. Civ. P. 65(b)(2)*. Plaintiffs acknowledge the text of the rule but have still asked that the TRO be extended until March 13, 2014, *i.e.*, the day of the preliminary injunction hearing.

The Court concludes that an extension of the TRO until March 13 is appropriate. As the Wright & Miller treatise notes, an extension beyond 14 days is “legitimate when the preliminary injunction hearing has not been held within that time.” *Wright, et al.*, Fed. Prac. & Proc. § 2953. *See, e.g., Trefelner v. Burrell Sch. Dist.*, 655 F. Supp. 2d 581, 599 (W.D. Pa. 2009) (holding that,

1 “[s]ince discovery is needed before the court will decide the motion for preliminary injunction, the
2 temporary restraining order will remain in effect until the hearing on the preliminary injunction [*i.e.*,
3 approximately six weeks]”).

4 The Court notes, however, that its ruling here does not bar Defendants from moving to
5 dissolve the TRO prior to the hearing on the preliminary injunction. *Cf.* Fed. R. Civ. P. 65(b)(4)
6 (allowing the adverse party to move to dissolve or modify the TRO “[o]n 2 days’ notice to the party
7 who obtained the order without notice – or on shorter notice set by the court”).

8 Moreover, because the TRO is being extended for more than 14 days, it shall be deemed a
9 preliminary injunction – not for all purposes but simply for the purpose of permitting Defendants to
10 take an appeal, if desired. *See* Wright, *et al.*, Fed. Prac. & Proc. § 2953 (stating that, “although it
11 undoubtedly is appropriate to allow an appeal from the restraining order in order to test its validity
12 once it has been extended beyond the time allowed by the rule, there is no reason why the order then
13 must become a preliminary injunction for all purposes”); *see also* Sampson v. Murray, 415 U.S. 61,
14 87 (1974) (noting that “[a] district court, if it were able to shield its orders from appellate review
15 merely by designating them as temporary restraining orders, rather than as preliminary injunctions,
16 would have virtually unlimited authority over the parties in an injunctive proceeding”).

17 Finally, the Court orders Plaintiffs to **immediately** serve a copy of this order on all
18 Defendants by the best means practicable. Plaintiffs shall file a declaration confirming and
19 describing service no later than February 21, 2014. **The Court notes that Plaintiffs failed to serve**
20 **a copy of their motion for an extension on Defendants. The Court does not condone or**
21 **approve of Plaintiffs’ failure. Plaintiffs are forewarned that failure to serve in the future may**

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1 be the basis for sanctions, including but not limited to dissolution of any injunctive relief and
2 or monetary sanctions. However, at this juncture in the proceedings, the Court shall not deny the
3 extension of the TRO based on the failure to serve.

4 The motion is **GRANTED**.

5 This order disposes of Docket No. 65.

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7 IT IS SO ORDERED.

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9 Dated: February 18, 2014

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12 EDWARD M. CHEN
13 United States District Judge
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